

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>V.</b>	)	<b>CRIMINAL NO. SA-22-CR-00304-XR</b>
	)	
<b>SEAN AARON SMITH,</b>	)	
	)	
<b>Defendant.</b>	)	

**UNITED STATES OF AMERICA’S  
MOTION FOR PRELIMINARY ORDER OF FORFEITURE**

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney and files this Motion for Preliminary Order of Forfeiture, pursuant to the provisions of Title 21 U.S.C. § 853(n)(1)-(7), and Fed. R. Crim. P. 32.2(b)(2) and (c)(1), and in support thereof states the following:

**I.**

On August 17, 2023, the Defendant entered a plea of guilty without a plea agreement to Counts One and Two of the Indictment (Doc. 16) returned against him, charging him with the violation of Title 18 U.S.C. § 922(g)(1). The Indictment (Doc. 16) included a Notice of Demand for Forfeiture pursuant to Title 18 U.S.C. § 924(d)(1), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461, in which the United States gave notice of its intent to forfeit certain property, namely:

1. Polymer80, Inc. PFC9; serial number CA15357;
2. Sig Sauer pistol, serial number 66B430849;
3. AK-47 GP/WASR-10/63, serial number 1968B11180; and
4. Any and all firearms, ammunition, and/or accessories involved in or used in the commission of the criminal offenses,

hereinafter referred to as the Subject Personal Property.

## II.

The United States of America moves the Court to find that the Defendant has an interest in the Subject Personal Property, and that the United States of America has proven by a preponderance of the evidence the nexus between the Subject Personal Property and the violation of Title 18 U.S.C. § 922(g)(1), by virtue of the Defendant's guilty plea with the Factual Basis (Doc. 36) filed with the Court.

Accordingly, the United States of America moves this Honorable Court for entry of a Preliminary Order of Forfeiture, which forfeits all right, title, and interest of the Defendant in the Subject Personal Property

## III.

The United States moves the Court, pursuant to Title 21 U.S.C. § 853(g) and Fed. R. Crim. P. 32.2(b)(3), for an Order authorizing the United States through its lawfully designated agents and agencies, including the Federal Bureau of Investigation and/or the United States Marshals Service, to seize, take custody, control and possession of the Subject Personal Property whether held by the Defendant or a third party.

## IV.

The United States further moves the Court, pursuant to Fed. R. Crim. P. 32.2(b)(6)(A) and (C) and Title 21 U.S.C. § 853(n)(1), for an Order authorizing the United States to cause publication for at least 30 consecutive days on an official government internet web site ([www.forfeiture.gov](http://www.forfeiture.gov)) of notice of the Preliminary Order of Forfeiture, and of its intent to dispose of the Subject Personal Property in such manner as the United States directs.

The United States of America further moves this Court for an Order authorizing that the

contents of the published notice be in compliance with Fed. R. Crim. P. 32.2(b)(6)(B).

V.

The United States further moves the Court, pursuant to Fed. R. Crim. P. 32.2(b)(6)(A), for an Order authorizing the United States to send direct notice of the Preliminary Order of Forfeiture to any person or entity who reasonably appears to the United States to be a potential petitioner with standing to contest the forfeiture in the ancillary proceeding.

The United States of America further moves this Honorable Court that Appendix A<sup>1</sup> be served on potential petitioners along with the Preliminary Order of Forfeiture.

VI.

Pursuant to Fed. R. Crim. P. 32.2(c)(1)(B) and in an effort to promote judicial economy, the United States further moves the Court for an Order authorizing the United States to commence discovery proceedings at the time that any petitions are filed in order to resolve any third-party issues, including depositions, interrogatories, requests for production of documents, and the issuance of subpoenas, pursuant to Fed. R. Civ. P. 45.

VII.

Lastly, the United States moves the Court, pursuant to Fed. R. Crim. P. 32.2(b)(4)(B), to order that at the time of the sentencing of the Defendant the forfeiture of the Subject Personal Property be included in his Judgment in a Criminal Case.

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<sup>1</sup>Appendix A, which is entitled “Direct Notice of Preliminary Order of Forfeiture,” sets forth the appropriate procedures, deadlines and applicable statutes necessary to file a third-party petition.

WHEREFORE, PREMISES CONSIDERED, the United States of America moves this Honorable Court for entry of a Preliminary Order of Forfeiture.

Respectfully submitted,

JAIME ESPARZA  
UNITED STATES ATTORNEY

By: /s/  
ANTONIO FRANCO, JR.  
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Attorneys for the United States of America

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 14, 2023, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participant:

Marina Thais Douenat  
Federal Public Defender, TXW  
300 Convent Street, Suite 2300  
San Antonio, TX 78205  
Email: [marina\\_douenat@fd.org](mailto:marina_douenat@fd.org)  
*Attorney for Defendant SEAN AARON SMITH*

/s/  
ANTONIO FRANCO, JR.  
Assistant United States Attorney

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
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<b>V.</b>	)	<b>CRIMINAL NO. SA-22-CR-00304-XR</b>
	)	
<b>SEAN AARON SMITH,</b>	)	
	)	
<b>Defendant.</b>	)	

**DIRECT NOTICE OF PRELIMINARY ORDER OF FORFEITURE**

Notice is hereby given that in the case of *U.S. v. SEAN AARON SMITH* Criminal No. SA-22-CR-00304-XR, the United States District Court for the Western District of Texas entered a Preliminary Order of Forfeiture condemning and forfeiting the following property to the United States of America:

1. Polymer80, Inc. PFC9; serial number CA15357;
2. Sig Sauer pistol, serial number 66B430849;
3. AK-47 GP/WASR-10/63, serial number 1968B11180; and
4. Any and all firearms, ammunition, and/or accessories involved in or used in the commission of the criminal offenses.

The United States hereby gives notice of its intent to dispose of the forfeited property in such manner as the United States Attorney General may direct. Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States must file a petition within 30 days of the final publication of notice or his receipt of notice, whichever is earlier pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and Title 21 U.S.C. § 853(n)(1)-(3). The petition must be filed with the Clerk of the Court, 262 West Nueva Street, Room 1-400, San Antonio, Texas 78207, and a copy served upon Assistant United States Attorney Antonio Franco, Jr., 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216.

The petition must comply with the requirements of Title 21 U.S.C. § 853(n).

If you fail to file a petition to assert your interest in the above-described property within the time prescribed above, your interest in this property will be lost and forfeited to the United States, which will then have clear title to the property and will dispose of the property in accordance with the law.

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>V.</b>	)	<b>CRIMINAL NO. SA-22-CR-00304-XR</b>
	)	
<b>SEAN AARON SMITH,</b>	)	
	)	
<b>Defendant.</b>	)	

**PRELIMINARY ORDER OF FORFEITURE**

Came on to be considered the United States of America's Motion for Preliminary Order of Forfeiture, pursuant to the provisions of Title 21 U.S.C. § 853(n)(1)-(7), and Fed. R. Crim. P. 32.2(b)(2) and (c)(1), and this Court being fully and wholly apprised in all its premises, finds that the United States has established by a preponderance of the evidence a nexus between the property described below and the violation of Title 18 U.S.C. § 922(g)(1) by virtue of the Defendant's guilty plea with the factual basis filed with the Court, and that the Defendant has an interest in said property. As such, said Motion is meritorious, and hereby is in all things GRANTED. IT IS THEREFORE

ORDERED that all right, title, and interest of the Defendant in certain property, namely:

1. Polymer80, Inc. PFC9; serial number CA15357;
2. Sig Sauer pistol, serial number 66B430849;
3. AK-47 GP/WASR-10/63, serial number 1968B11180; and
4. Any and all firearms, ammunition, and/or accessories involved in or used in the commission of the criminal offenses,

hereinafter referred to as the Subject Personal Property be, and hereby is FORFEITED to the United States of America; and IT IS FURTHER

ORDERED that upon entry of the Preliminary Order of Forfeiture, the United States

through its lawfully designated agents and agencies, including the Federal Bureau of Investigation and/or the United States Marshals Service, shall seize, take custody, control, and possession of the Subject Personal Property whether held by the Defendant or a third party; and IT IS FURTHER

ORDERED that the United States shall cause publication for at least 30 consecutive days on an official government internet website ([www.forfeiture.gov](http://www.forfeiture.gov)) of the notice of the Preliminary Order of Forfeiture and of its intent to dispose of the Subject Personal Property in such manner as the United States directs. The United States must send notice to any person or entity who reasonably appears to be a potential petitioner with standing to contest the forfeiture in the ancillary proceeding; and IT IS FURTHER

ORDERED that the United States shall send Direct Notice of the Preliminary Order of Forfeiture, Appendix A, which is attached to the United States of America's Motion for Preliminary Order of Forfeiture, and incorporated herein to those known to the United States to have an interest in the Subject Personal Property; and IT IS FURTHER

ORDERED that in the event a third-party petition is filed as to the Subject Personal Property the United States shall commence discovery proceedings to resolve any third-party issues, including depositions, interrogatories, requests for production of documents, and the issuance of subpoenas, pursuant to Fed. R. Civ. P. 45; and IT IS FURTHER

ORDERED that at the time of the sentencing of the Defendant the forfeiture of the Subject Personal Property shall be included in his Judgment in a Criminal Case.

IT IS SO ORDERED.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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XAVIER RODRIGUEZ  
United States District Judge